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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/364,317	07/30/1999	REINER WAMSSER	10191/1145	9279
26646	7590	10/11/2005	EXAMINER	
KENYON & KENYON ONE BROADWAY NEW YORK, NY 10004				MASKULINSKI, MICHAEL C
		ART UNIT		PAPER NUMBER
		2113		

DATE MAILED: 10/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/364,317	WAMSSER ET AL.
	Examiner Michael C. Maskulinski	Art Unit 2113

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 8/1/05.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-14 is/are pending in the application.
 - 4a) Of the above claim(s) 10 is/are withdrawn from consideration.
- 5) Claim(s) 1-9, 11 and 12 is/are allowed.
- 6) Claim(s) 13 and 14 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

Final Office Action

Claim Rejections - 35 USC § 112

1. In view of the recent amendments, the rejection of claims 11, 12, and 14, under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention, has been withdrawn.

Claim Objections

2. In view of the Applicant's arguments, the objection of claims 1, 8, and 13 has been withdrawn.

Claim Rejections - 35 USC § 102

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Claims 13 and 14 are rejected under 35 U.S.C. 102(e) as being anticipated by Klein, U.S. Patent 6,279,125 B1.

Referring to claim 13:

- a. In Figure 1, Klein discloses a safety device for a stored-program control (CPU) coupling a computer bus system (CPU bus) with a peripheral bus system (peripheral bus, ISA bus), a peripheral being connected to the peripheral bus system (video controller, network adapter, Keyboard controller, RTC, serial, parallel ports, ROM, Audio).

b. In Figure 1, Klein discloses a central controller (system controller) for exchanging data with the stored-program control. In column 4, lines 1-10, Klein discloses an operating system with user applications running on it that are capable of accessing peripherals (the stored-program continually executing an SPS program on a real-time operating system, the stored-program control exchanging data, via the peripheral bus system, with a peripheral to be controlled). In Figure 2, Klein discloses a bridge controller (wherein a bus controller controls a data transport via the peripheral bus system).

c. In Figure 2, Klein discloses an interface for receiving at least one control signal forwarded to the stored-program control via the central controller.

Referring to claim 14, in Figure 1, Klein discloses a circuit board for accommodating at least one of the controller and the interface.

Allowable Subject Matter

5. Claims 1-9, 11, and 12 are allowed.
2. The following is an examiner's statement of reasons for allowance:

Referring to claims 1-7, the prior art does not teach or reasonably suggest a safety device for a stored-program control coupling a computer bus system with a peripheral bus system, a peripheral being connected to the peripheral bus system, comprising a memory for storing safety-relevant data of the stored-program control, the safety-relevant data being accessible by a controller.

Referring to claims 8, 9, 11, and 12, the prior art does not teach or reasonably suggest a monitor for monitoring a wake-up signal generated by the stored-program control and transmitted to the monitor by the central controller, wherein the monitor activates, as a function of the wake-up signal, a bus controller, which controls a data transport via the peripheral bus system.

Response to Arguments

6. Applicant's arguments filed August 1, 2005 have been fully considered but they are not persuasive.
7. On page 7, under the section REMARKS, the Applicant argues, "Although the Examiner equates the CPU of Klein with the Applicants' claimed 'stored-program control,' the CPU is simply not equivalent to the claimed 'stored-program control continually executing an SPS program,' which SPS program is clearly defined in the specification as 'programmable logic controller' program (see discussion above in connection with objection to claims 1,8, and 13), since the term CPU simply does not implicate the use of a programmable logic controller." The Examiner respectfully disagrees. A CPU is programmable, uses logic, and controls data.
8. On pages 7-8, under the section REMARKS, the Applicant argues, "The arrangement described in Klein simply does not suggest a real-time operating system running an SPS (a programmable logic controller) program, since a programmable logic controller program, by definition, is not a commercially available software, but an individualized program. Applicants note that a PC with a real-time operating software

and an SPS (a programmable logic controller) program which computes real-time data is a customized arrangement, i.e., a PC must be modified with additional hardware and/or software to implement a real-time-based programmable logic controller.” The Examiner respectfully disagrees. In column 4, lines 1-10, Klein discloses an operating system with user applications running on it that are capable of accessing peripherals. These applications cannot be assumed to be commercial since in column 4, lines 4-5, Klein disclose, “user applications **may** be commercially available”. Further, these applications are functional equivalents of an SPS program and, therefore, anticipate the claimed invention.

9. On page 8, under the section REMARKS, the Applicant argues, “Klein does not disclose the claimed feature of ‘an interface for receiving at least one control signal forwarded to the stored-program control via the central controller,’ as recited in claim 13.” The Examiner respectfully disagrees and adds that the Applicant has mistakenly equated the claimed interface to the API. The Examiner once again points the Applicant to Figure 2, which clearly shows an interface between the physical resources and the operation system. This is further disclosed in column 4, lines 10-44.

10. On page 8, under the section REMARKS, the Applicant argues, “Independently, regarding the features of claim 14, Fig. 1 of Klein does not disclose a circuit board; instead, Fig. 1 merely shows a block diagram of the computer components.” The Examiner respectfully disagrees. The invention of Klein must inherently have a circuit board for accommodating at least one of the central controller and the interface. The

components of Figure 2 are not just floating around. They are mounted on a circuit board. This is a basic fundamental of all computer systems.

Conclusion

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael C. Maskulinski whose telephone number is (571) 272-3649. The examiner can normally be reached on Monday-Friday 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert W. Beausoliel can be reached on (571) 272-3645. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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